

**State of Maine
Board of Licensure in Medicine
137 SHS, 161 Capitol Street
Augusta, Maine 04333-0137
May 10, 2011 Meeting
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**State of Maine
Board of Licensure in Medicine
137 SHS, 161 Capitol Street
Augusta, Maine 04333-0137
May 10, 2011 Meeting**

BOARD MEMBERS PRESENT

Sheridan R. Oldham, M.D., Chairman
Gary R. Hatfield, M.D., Board Secretary
Cheryl Clukey
George K. Dreher, M.D.
David H. Dumont, M.D.
Maroulla Gleaton, M.D.
David D. Jones, M.D.
David Nyberg, Ph.D.

BOARD STAFF PRESENT

Randal C. Manning, Executive Director
Mark C. Cooper, M.D., Medical Director
Jean M. Greenwood, Board Coordinator
Dan Sprague, Assistant Executive Director
Tim Terranova, Consumer Assistant
Maria MacDonald, Board Investigator

ATTORNEY GENERAL'S OFFICE

Dennis Smith, Assistant Attorney General
Detective Peter Lizanecz

Meg Baxter was excused.

The Board meets in public session with the exception of the times listed below, which are held in executive session. Executive sessions are held to consider matters which, under statute, are confidential (1 M.R.S. §405) and 10 M.R.S.A. §8003-B, and 22 M.R.S. § 1711-C.) The Board moved, seconded, and voted the following executive session times. During the public session portions of the meeting actions are taken on all matters discussed during executive session. Discussions are projected on a screen by PowerPoint projection.

PUBLIC SESSIONS

9:08 a.m. – 9:17 a.m.
10:21 a.m. – 10:21 a.m.
12:51 p.m. – 2:27 p.m.

PURPOSE

Call to Order
Public Session
Public Session and Adjournment

EXECUTIVE SESSION

9:17 a.m. – 10:21 a.m.
10:34 a.m. – 12:01 p.m.

Reviewing Progress Reports and New Complaints
Reviewing New Complaints and Assessment & Direction

RECESS

10:21 a.m. – 10:34 a.m.
12:01 p.m. – 12:51 p.m.

I. CALL TO ORDER

Dr. Oldham called the meeting to order at 9:08 a.m.

A. AMENDMENTS TO AGENDA

1. Amend to Section VII (B) Keng Cheong Leong, M.D. (CR 10-580)

B. SCHEDULED AGENDA ITEMS

1. ADJUDICATORY HEARING 10:00 A.M.

- a. CR 09-439/10-099 JOHN M. DORN, M.D. (Settled by Consent Agreement)

II. PROGRESS REPORTS

1. CR 10-281 HARRY J. RICHTER, M.D. (BOLIM)

Dr. Gleaton moved to dismiss CR 10-281 Harry J. Richter, M.D. with a letter of guidance. Dr. Dreher seconded the motion, which passed unanimously.

A physician complained about the medication prescribing patterns of another physician. A review of the records indicates self-prescribing and prescribing to family members. The physician understands that this is unprofessional behavior and will refrain from repeating these actions. The Board of Licensure in Medicine guidelines for prescribing will be sent to this physician. The letter of guidance will also explain that the physician should only prescribe medication for patients when he performs a medical evaluation with subsequent appropriate documentation. He should not prescribe any medications to family members unless in an emergency and should not prescribe medication to himself as outlined in The Code of Medical Ethics, 2008-2009, of the American Medical Association. The physician should also understand that while filling out renewal of licensure applications he needs to answer all questions straightforwardly and carefully.

2. CR 10-514

Dr. Dumont moved to investigate further CR 10-514. Dr. Hatfield seconded the motion, which passed unanimously.

3. CR 10-538

Dr. Hatfield moved to dismiss CR 10-538. Dr. Gleaton seconded the motion, which passed unanimously.

The complainant feels that her son's post-operative problems were inappropriately dismissed by the surgeon as simply the typical symptoms seen after such a procedure. She feels further diagnostic testing should have been done much earlier during the post-operative course, and that waiting on this testing led to her son almost dying.

A review of the records shows that the problems the patient experienced are known complications of this surgery. The care given was reasonable, and the symptoms seen are indeed often seen post-operatively during a normal recovery from this procedure.

The physician returned calls from the mother expeditiously, discussing his care with her on several occasions; he also discussed his care with the patient's primary care pediatrician, who

was also monitoring the patient's clinical course. The clinical record does not support the allegation that the patient was in imminent danger of dying.

4. CR 10-206

Dr. Gleaton moved to investigate further CR 10-206. Dr. Dreher seconded the motion, which passed unanimously.

5. INTENTIONALLY LEFT BLANK

6. COMPLAINT STATUS REPORT (FYI)

7. REVIEW DRAFT LETTERS OF GUIDANCE

A. CR 10-051 DIRK VANDERSLOOT, M.D.

Dr. Dreher moved to approve the letter of guidance to Dirk Vandersloot, M.D. Dr. Dumont seconded the motion, which passed 7-0-0-1 with Dr. Nyberg recused.

B. CR 10-087 PHILLIP H. McFARLANE, M.D.

Dr. Dreher moved to approve the letter of guidance to Phillip McFarlane, M.D. Dr. Jones seconded the motion, which passed unanimously.

C. CR 10-240 TASHA A. WORSTER, M.D.

Dr. Jones moved to approve the letter of guidance to Tasha A. Worster, M.D. Dr. Hatfield seconded the motion, which passed unanimously.

D. CR 10-436 ADAM W. OWEN, M.D.

Dr. Gleaton moved to approve the letter of guidance to Adam W. Owen, M.D. Dr. Jones seconded the motion, which passed unanimously.

8. CONSUMER ASSISTANT FEEDBACK (FYI)

III. NEW COMPLAINTS

9. CR 11-105

Dr. Dumont moved to dismiss CR 11-105. Dr. Gleaton seconded the motion, which passed 7-0-0-1 with Dr. Jones recused.

A patient in Florida complains that records from Florida that were requested from this physician were not released to her attorney as had been requested. The physician replies that after he received the records release he tried to contact the patient by phone to tell her how to get her

records. He left her a voice mail indicating the appropriate address to get the records from. She acknowledges receiving this message.

10. CR 11-013

Dr. Gleaton moved to dismiss CR 11-013. Dr. Jones seconded the motion, which passed unanimously.

A patient complained about inappropriate /inadequate medical care of his sinus disease that he received from a physician who was covering in the office for his primary care physician. The patient wanted antibiotic treatment to be given to him. The covering physician supplied the Board with good documentation of events which revealed reasonable care and good medical reasoning given the circumstances. The physician was sorry for the patient's frustrations but also raised the appropriate concern about too frequent prescribing of antibiotics without considering alternatives and thorough evaluation.

11. CR 10-602

Dr. Hatfield moved to dismiss CR 10-602. Dr. Dumont seconded the motion, which passed unanimously.

The complainant feels that the physician who conducted an independent medical examination (IME) to address his work injuries was dishonest and inaccurate, and that the IME findings disagree with the findings of other health care providers. Review of the records does indeed show some disagreement between the IME findings and those of other providers, although not to the extent implied by the complainant. The disagreements generally involve the amount of ongoing impairment the complainant suffers as well as whether surgical intervention at the hip is warranted.

The IME report is detailed and well-reasoned; the Board cannot address the discrepancy between the physician's recorded objective findings and the complainant's recollection of what happened during that evaluation, as no one else was present for this.

The Board finds no evidence of dishonesty on the part of the physician. The Board feels that the complainant would be best served by appealing the IME decision through the available appeal process if he feels that the IME evaluation and conclusions are inaccurate.

12. CR 11-009

Dr. Jones moved to dismiss CR 11-009. Dr. Nyberg seconded the motion, which passed unanimously.

The Board initiated a complaint alleging incompetence and unprofessional behavior by this physician based on an investigation and findings by the Department of Human Services, Licensing and Regulatory Services Division.

This is a complex case that involves 5 physicians, 2 of whom have made statements that can not be corroborated, and that are directly contradictory, and a third who has made a statement that subsequently has proved inaccurate.

The initial intervention for this patient, in an emergent situation, was prolonged and unsuccessful. Two emergency department physicians failed to initiate definitive care. A hospitalist evaluated this patient for more than 40 minutes but did not document his exam or thoughts, or the two conversations he had with the specialist with whom he consulted. The specialist thought he was responding to a stable hospitalized patient while the emergency department physician and hospitalist thought he should have come to the emergency department. There was also confusion about the disposition of the patient. The patient was transferred to a second hospital where he had emergent intervention and immediate correction of his condition, with an excellent outcome.

The Board does not find documented evidence of incompetence or unprofessional behavior attributed to this physician.

13. CR 10-604

Dr. Oldham moved to investigate further CR 10-604. Dr. Hatfield seconded the motion, which passed 7-0-0-1 with Dr. Gleaton recused.

14. CR 11-011

Dr. Nyberg moved to dismiss CR 11-011. Dr. Dumont seconded the motion, which passed unanimously.

The Board questioned whether the physician failed to report an open malpractice claim on his April 14, 2009 renewal application. The physician explained that since the matter was resolved without filing a formal claim his application was accurate. He has reported the matter openly to his employers and to all relevant licensing boards.

15. CR 10-605 JOSHUA P. COLE, M.D.

Dr. Hatfield moved to dismiss CR 10-605 Joshua P. Cole, M.D. with a letter of guidance. Dr. Gleaton seconded the motion, which passed unanimously.

The complainant feels that the physician's outpatient medical care was not effective, and that an episode of acute delirium while she was hospitalized was the direct result of inappropriate medication which he prescribed. She believes the physician overcharged Medicare for his services in the hospital. She also complains that during a conversation with her on the telephone, the physician became upset with her and used rude language; in addition, she feels he was sarcastic when she tried to address concerns she had over her symptoms during that conversation.

A review of the records does not show evidence of inappropriate medical care, with the physician often having to care for the patient over the telephone because of her not making it to needed office appointments. During her hospitalization, the patient was already suffering from delirium before the physician made any medication changes, changes that were a direct response to the delirium. There is no evidence that Medicare was overcharged.

The physician admits that his choice of words when addressing the patient's issues during a conversation was poor, and explains this was an attempt at humor while dealing with a frustrating situation. He states that he was not trying to be sarcastic, and notes that he apologized to the patient during the subsequent office appointment, an apology that he felt she accepted at that time. This is documented in the medical records.

A letter of guidance will point out the need to use appropriate language at all times when speaking with patients, as frustration over issues involving a patient should be discussed in a manner that leads to resolution of a conflict rather than adding to it.

16. CR 11-036

Dr. Jones moved to dismiss CR 11-036. Dr. Nyberg seconded the motion, which passed unanimously.

The complainant states that he was discharged from the physician's practice inappropriately. He states that there was no provision for coverage made for refills of his prescriptions, and that he was not allowed to re-enter the practice at a later date.

It is noted that the patient had cancelled his own future appointments and stated he would not see the doctor again. The physician stated that the complainant made unacceptable racial comments the day he cancelled his future appointments. The physician is not obligated to accept the patient back into his practice at a later time.

The Board would urge the physician to document in the medical record all encounters, especially ones as important as the termination of physician/patient relationships.

17. CR 11-024

Dr. Dumont moved to dismiss CR 11-024. Dr. Gleaton seconded the motion, which passed 7-0-0-1 with Dr. Hatfield recused.

In this complaint the patient accuses an Emergency Department (ED) physician of refusing to call her treating neurologist when the patient presented with a migraine. She also states the ED physician did not follow the patient's usual medication protocol. The physician replies that she was very familiar with the patient because of multiple previous visits. The physician did a thorough history and exam and modified the treatment protocol based on her exam and the patient's response to the above. The physician did not feel that there was a clinical need to call the neurologist but was concerned about the patient's multiple medications and the risk of drug interactions.

The patient also felt that the physician was judgmental and disrespectful. The physician replies that she was concerned about the patient's frequent need to use the emergency department but did not mean to be judgmental. She was, however, concerned about the patient's well being. She did not mean to offend the patient.

Subsequent to the complaint being filed the physician apologized to the patient and the patient has expressed a desire to withdraw the complaint. In any case, the medical care provided was appropriate and thoughtful.

18. CR 11-060 CARL T. FOLKEMER, M.D.

Dr. Nyberg moved to order an adjudicatory hearing in the matter of CR 11-060 Carl T. Folkemer, M.D. Ms. Clukey seconded the motion, which passed unanimously.

19. CR 11-063

Dr. Dumont moved to dismiss CR 11-063. Dr. Jones seconded the motion, which passed unanimously.

This complaint involves the care of a woman with a first trimester pregnancy who had vaginal bleeding and was seen in the Emergency Department. The complaint involves a prolonged wait to be seen, and allegations that a medical student did a "rape exam" for practice, and that the attending did not know how to do the appropriate ultrasound. The patient had to return the next day for another visit and ultrasound. In addition, the patient was told she would not have to make her copayment but she has received a bill for it.

The physician apologizes for the patient's wait but states appropriate triage occurred. Review of the records shows a medical student did the initial history and exam but did not document a pelvic exam and did not do a rape kit. The attending did repeat the history and did do a full exam. He also did a transabdominal ultrasound but this was not sufficient to judge fetal viability. The patient was told she would need to return for a full radiology department transvaginal ultrasound in the morning. Unfortunately when she returned she did receive another ED evaluation instead of just having the ultrasound. At this visit she was seen by both a resident and an attending physician and was solicited by a nurse to have a pelvic exam for rape exam training but it does not appear that this occurred.

Initial care by the attending was appropriate but communication was poor. The patient should not have had to have another full ED visit and should not have been solicited for the rape exam training. The attending states that his department is working on improving these practices. The medical care that was given does appear to be appropriate despite poor communication and poor systems of care. Payment issues with the hospital are beyond the scope of this Board's review.

20. CR 11-065

Ms. Clukey moved to investigate further CR 11-065. Dr. Hatfield seconded the motion, which passed unanimously.

21. CR 11-066

Ms. Clukey moved to dismiss CR 11-066. Dr. Nyberg seconded the motion, which passed unanimously.

The complainant alleges the physician inappropriately terminated her and her daughter from her practice due to a billing dispute. The patient states she had an appointment for annual exam. While there she expressed concern about abdominal pain she was experiencing and asked questions concerning this. The physician examined her abdomen and asked her questions. The physician charged her for an additional office visit. Her daughter, who is also a patient, called the physician's office and questioned her medical bill. The patient complained about being charged for this and the charge was removed. However, the physician followed up by sending a letter of termination from the medical practice to both her and her daughter. In her response, the physician stated "when you distrust your physician in the area of billing it is likely to affect the therapeutic relationship and the patient/ physician relationship is no longer viable." Today, it is standard practice to bill for another office visit if the patient asks questions about an ancillary medical concern separate from a physical exam. However, it is good medical care to communicate this to the patient when a patient begins asking questions not related to the appointment at hand. Physicians are permitted to terminate a patient when they believe the physician/patient relationship is not viable; however, better communication could have prevented the loss of this relationship.

22. CR 11-067

Dr. Jones moved to dismiss CR 11-067. Dr. Nyberg seconded the motion, which passed unanimously.

The complainant was electively admitted for an induction of labor. She had multiple exams by physicians during her induction, all supporting normal progress. The fetus had decelerations during some contractions or during instrumentation that would resolve with appropriate treatment. The on call obstetrician attempted vacuum extraction twice when the patient's labor failed to progress in the middle of the night. The obstetrician then chose to deliver the baby by cesarean section due to the labor's failure to progress and the patient's fatigue, both discussed clearly in the operative note.

The cesarean section was difficult due to the advanced stage of labor, but a healthy baby boy was delivered. The complainant had a surgical complication that was recognized immediately and appropriately treated with consultation and a timely return to the operating room.

The board understands the complainant's frustration with the surgical complication of her cesarean section, but on review of the records the Board finds the obstetrical care appropriate.

23. CR 11-080

Dr. Gleaton moved to investigate further CR 11-080. Dr. Hatfield seconded the motion, which passed unanimously.

24. CR 11-081

Ms. Clukey moved to investigate further CR 11-081. Dr. Jones seconded the motion, which passed unanimously.

25. CR 11-134

Dr. Gleaton moved to dismiss CR 11-134. Dr. Dumont seconded the motion, which passed unanimously.

A patient complained about an orthopedic physician falsifying information about an MRI and medical exam as well as performing a rough range of motion physical examination. Review of the records reveals a patient with a history of mild degenerative spinal disease without clear nerve impingement but with complaints of severe pain. He has comorbidities that may also have contributed to his discomfort: Type II Diabetes with evidence of distal neuropathy, chronic kidney disease, gastrointestinal reflux disease, sleep apnea, kidney stones and hypertension. After multiple examinations and testing by multiple providers, there is general agreement about his medical diagnosis and overall conservative treatment approaches to his spinal disease. There is no evidence of falsification or unprofessionalism on the physician's part. There may have been some insensitivity to the patient's complaints of pain by the orthopedic surgeon; however, several providers document that the pain perceived by the patient seemed out of proportion to neurologic physical, electromyographic, and imaging examinations.

26. INTENTIONALLY LEFT BLANK

IV. ASSESSMENT & DIRECTION

27. AD 11-057 (CR 11-208)

Dr. Dreher moved to issue a complaint in the matter of AD 11-057. Dr. Gleaton seconded the motion, which passed unanimously.

28. AD 11-091 (CR 11-209)

Dr. Dumont moved to issue a complaint in the matter of AD 11-091. Dr. Hatfield seconded the motion, which passed 7-0-0-1 with Dr. Gleaton recused.

29. AD 11-142

Dr. Dreher moved to investigate further AD 11-142. Dr. Gleaton seconded the motion, which passed unanimously.

30. AD 11-143

Dr. Gleaton moved to file AD 11-143. Dr. Dumont seconded the motion, which passed 7-0-0-1 with Dr. Hatfield recused.

31. AD 11-144 (CR 11-210)

Dr. Jones moved to issue a complaint in the matter of AD 11-144. Dr. Gleaton seconded the motion, which passed 7-0-0-1 with Dr. Hatfield recused.

32. AD 11-145

Dr. Dreher moved to file AD 11-145. Dr. Jones seconded the motion, which passed unanimously.

33. AD 11-177

Dr. Jones moved to investigate further AD 11-177. Dr. Gleaton seconded the motion, which passed 7-0-0-1 with Dr. Dreher recused.

34. AD 11-179

Dr. Gleaton moved to file AD 11-179. Dr. Jones seconded the motion, which passed unanimously.

35. INTENTIONALLY LEFT BLANK

V. INFORMAL CONFERENCE(S) (NONE)

NOON RECESS

PUBLIC SESSION

VI. MINUTES OF APRIL 12, 2011

Dr. Jones moved to approve the minutes of April 12, 2011. Dr. Dumont seconded the motion, which passed 7-0-1-0 with Dr. Oldham abstaining.

VII. BOARD ORDERS & CONSENT AGREEMENT MONITORING AND APPROVAL

A. BOARD ORDERS (NONE)

B. CONSENT AGREEMENTS – MONITORING AND APPROVAL

1. JOHN MATT DORN, M.D. (CR 09-439 AND CR 10-099) [See Appendix A attached]

Dr. Gleaton moved to approve a Consent Agreement in the matter of John M. Dorn, M.D. (CR 09-439 and CR 10-099). Ms. Clukey seconded the motion, which passed unanimously.

2. PATRICK FALLON, M.D. [See Appendix B attached]

Dr. Gleaton moved to approve a Consent Agreement in the matter of Patrick Fallon, M.D. Ms. Clukey seconded the motion, which passed 6-0-0-2 with Dr. Hatfield and Dr. Jones recused.

3. JOSHUA WERBLIN, M.D. (CR 10-525) [See Appendix C attached]

Motion was made by Dr. Dumont to approve the Consent Agreement in the matter of Joshua Werblin, M.D. (CR 10-525) with a single edit. Dr. Jones seconded the motion, which passed unanimously.

4. KENG CHEONG LEONG, M.D. (CR 10-580) [See Appendix D attached]

Dr. Dumont moved to approve a Consent Agreement in the matter of Keng Cheong Leong, M.D. to settle CR 10-580. Dr. Gleaton seconded the motion, which passed 7-0-0-1 with Dr. Hatfield recused.

VIII. ADJUDICATORY HEARING - (Settled by Consent Agreement).

IX. REMARKS OF CHAIRMAN (NONE)

X. EXECUTIVE DIRECTOR'S MONTHLY REPORT

The Board accepted the Executive Director's Report.

A. COMPLAINT STATUS REPORT (FYI)

B. POLICY REVIEW – INTERNET PRESCRIBING

Dr. Dumont moved to adopt a proposed modification to the Internet Prescribing Policy. Dr. Jones seconded the motion, which passed unanimously.

C. FSMB ANNUAL MEETING REPORT

Mr. Manning and Dr. Nyberg attended the 2011 FSMB Annual Meeting in Seattle, Washington. Dr. Nyberg was the Board's representative to the House of Delegates.

XI. MEDICAL DIRECTOR'S REPORT

Dr. Cooper reported feedback regarding the State Exam and Informed Consent.

XII. REMARKS OF ASSISTANT ATTORNEY GENERAL (NONE)

XIII. SECRETARY'S REPORTA, LIST A1. M.D. LIST A LICENSES FOR RATIFICATION

Dr. Gleaton moved to ratify Dr. Hatfield's approval of the physicians on M.D. List A for licensure. Dr. Jones seconded the motion, which passed unanimously.

The following license applications have been approved by staff and Board Secretary Gary R. Hatfield, M.D. without reservation:

NAME	SPECIALTY	LOCATION
ASSAF, Wassim W.	Internal Medicine	Bangor
BREWER, Edward S.	Diagnostic Radiology	Kittery
DEBIEGUN, Garreth C	Emergency Medicine	Portland
EL RIMAWI, Nidal	Family Medicine	Fort Kent
Eliacin, Elizabeth	Internal Medicine	Calais
GALECKAS, Kenneth J.	Dermatology	South Portland
GALLEA, James W.	Emergency Medicine	Norway
GAUTAM, Rohit	Internal Medicine / Geriatrics	Caribou
GEOROFF, Mary E.	A&C Pathology	Not Listed
GOODARZI, Mahmoud	Anatomic Pathology	Telemedicine
HANSEN, Shandi M.	Emergency Medicine	Bangor
HROMANIK, Michael J.	Orthopaedic Surgery	Fort Kent
ILYASOV, Andrey A.	Internal Medicine	Fort Kent
KEUSCH, Cristina F.	Plastic Surgery	Not Listed
LITTLE, Yana K. S.	Family Medicine	Portland
LYNCH, Sean P.	Internal Medicine	York
OUEIDA, Zaher M.	Internal Medicine	Dover-Foxcroft
PATIDAR, Sandip A.	Diagnostic Radiology	Not Listed
RASKAUSKAS, Thomas A.	Obstetrics & Gynecology	Portland
REDMOND-DUROW, Aoife B.	Family Medicine	Knox County
RICO, Amy C.	Family Medicine	Augusta
ROBBINS, Justin	Orthopaedic Surgery	Pittsfield
SAVERA, Adnan T.	Anatomic Pathology	Telemedicine
SHARMA, Ninu	A&C Pathology	Caribou
SNEERINGER, Rita M.	Reproductive Endocrinology	South Portland
SOARE, Mihail I.	Nephrology	Bangor
STANHISER, Daniel E.	Family Medicine	Lewiston
STRAWBRIDGE, Elizabeth M.	Family Medicine	Portland
VERLEE, Graham T.	Urology	Portland
WATERS, Katherine M.	A&C Pathology	Augusta
WHEATON, Myra A.	Anesthesiology	Presque Isle

2. P.A. LIST A LICENSES FOR RATIFICATION

Dr. Jones moved to ratify Dr. Hatfield's approval of the physician assistants on P.A. List A for licensure. Dr. Gleaton seconded the motion, which passed unanimously.

The following Physician Assistant license applications have been approved by the Board Secretary Gary R. Hatfield, M.D. without reservation:

<u>Name</u>	<u>License</u>	<u>PSP</u>	<u>Location</u>
Sarah Bachanan, P.A.-C	Inactive	None	None
David Flahery, P.A.-C	Active	David McDermott, M.D.	Dover-Foxcroft

B. LIST B APPLICATIONS FOR INDIVIDUAL CONSIDERATION

1. ALLISON K. DAVIS, M.D.

The Licensure Committee moved to approve a license for Allison K. Davis, M.D. The motion passed 6-2.

2. ARASH K. MOMENI, M.D.

The Licensure Committee moved to grant a waiver and approve a license for Arash K. Momeni, M.D. The motion passed unanimously,

3. PAUL B. SOBIN, M.D.

The Licensure Committee moved to table the license application of Paul B. Sobin, M.D. The motion passed unanimously.

C. LIST C APPLICATIONS FOR REINSTATEMENT FOR RATIFICATION

1. LIST C (1) APPLICATIONS FOR REINSTATEMENT FOR RATIFICATION

- a. Dr. Gleaton moved to ratify the license reinstatement on List C. The motion passed unanimously.

The following license reinstatement application has been approved by staff and Board Secretary Gary R. Hatfield, M.D. without reservation:

<u>NAME</u>	<u>SPECIALTY</u>	<u>LOCATION</u>
Hussein Raef, M.D.	Internal Medicine	Biddeford

2. LIST C (2) APPLICATIONS FOR REINSTATEMENT FOR INDIVIDUAL CONSIDERATION (NONE)

D. LIST D – WITHDRAWALS

1. LIST D (1) WITHDRAW LICENSE APPLICATION (NONE)
2. LIST D (2) WITHDRAW LICENSE FROM REGISTRATION

Dr. Gleaton moved to approve the licensees on List D (2) to withdraw from registration.
Dr. Dreher seconded the motion, which passed unanimously.

The following physicians and/or physician assistants have applied to withdraw their licenses from registration:

<u>NAME</u>	<u>LICENSE NUMBER</u>
Aroon, Javali	008302
Bell, John	015727
Feoli, Enrique	016111
Peterson, Linda	013098
Rojas, Ana	016851
Wecker, Barry	013754
Wong, Edward	016376

3. LIST D (3) WITHDRAW LICENSE FROM REGISTRATION
INDIVIDUAL CONSIDERATION (NONE)

E. LIST E LICENSES TO LAPSE BY OPERATION OF LAW

The following physician's licenses lapsed by operation of law effective April 22, 2011.

<u>NAME</u>	<u>LICENSE NO</u>
Abidi, Maheen A.	018416
Ahmed, Tajuddin	006488
Alvord, Lori A.	018435
Anderson, Kristin Kore	016299
Andreson, Margot H.	017506
Bietry, Raymond E.	018431
Boyman, Kym M.	016345
Dale, Wheeler J.	017997
Davis, William A.	016720
Eck, Charles A.	018025
Erian, Makram	010545
Evangelista, Emerita S.	010339
Francis, Robert D.	017941
Hartog, Beth	016113
Higgins, Peter J.	013930
Jeong, Woondong	017116
Karumudi, Usha Rani	017373
Lebenzon, Joseph E.	016004

McCann, Brian	008485
McGuire, Stuart W.	005860
McLean, Preston A.	005213
Mehata, Tushar J.	013946
Morgan, Tresa J.	016065
O'Day, John	008475
Parisien, Kristina	016610
Patri, Murali S.	018434
Pesch, Theodor	017693
Quijano, Marta A.	017538
Ramia, Rony J.	017517
Reid, Susan	009339
Sandell, Richard J.	017197
Schwartz, Ronald	016968
Zeller, William W.	009642

F. LIST F LICENSES REQUESTING TO CONVERT TO ACTIVE STATUS (NONE)

G. LIST G RENEWAL APPLICATIONS FOR REVIEW

1. ROBERT MEARNS, M.D.

The Licensure Committee moved to grant renewal to Robert Mearns, M.D. The motion passed unanimously.

2. KEVIN KENDALL, M.D.

The Licensure Committee moved to grant renewal to Kevin Kendall, M.D. The motion passed unanimously.

H. LIST H PHYSICIAN ASSISTANT REQUESTS FOR SCHEDULE II AUTHORITY FOR RATIFICATION

1. APPLICATIONS TO RENEW SCHEDULE II AUTHORITY

Dr. Jones moved to ratify Dr. Hatfield's approval to renew Schedule II Authority for the following requests. Dr. Gleaton seconded the motion, which passed unanimously.

The following renewal requests for Schedule II prescribing authority have been approved by the Board Secretary Gary R. Hatfield, M.D.

<u>NAME</u>	<u>PSP</u>	<u>LOCATION</u>
Paul Daiute, P.A.-C	Bruce Gomberg, M.D.	Augusta
Michael Gauthier, P.A.-C	Carlo Gammaioni, M.D.	Lewiston
Diana Wagman, P.A.-C	John T. Chance, M.D.	Portland
Joseph Sorbello, P.A.-C	Stephen Kelly, M.D.	Portland
Frank Hull, P.A.-C	John Pier, M.D.	Scarborough

Paul Evans, P.A.-C	George Babikian, M.D	Portland
Kimberly Budd, P.A.-C	Carlo Gammaitoni, M.D.	Lewiston
Kenneth Tolman, P.A.-C	Darin Peck, M.D.	Greenville
James Sprouse, P.A.-C	Ingrid Runden, M.D.	Augusta
Shawn McGlew, P.A.-C	Michael Klein, M.D.	Waterville
Julie Wise, P.A.-C	Stacia Baker, M.D.	Brunswick
James Williams, P.A.-C	Douglas K. Clark, M.D.	Belfast
Michael Juneau, P.A.-C	Lisa Beaule, M.D.	South Portland
James Gillen, P.A.-C	Seth Blank, M.D.	Portland
Elizabeth Dobos, P.A.-C	John Garofalo, M.D.	Waterville

2. APPLICATIONS FOR NEW SCHEDULE II AUTHORITY

Dr. Gleaton moved to ratify Dr. Hatfield's approval of Schedule II Authority for the following new requests. Dr. Jones seconded the motion, which passed unanimously.

The following new requests for Schedule II prescribing authority have been approved by the Board Secretary Gary R. Hatfield, MD.

<u>NAME</u>	<u>PSP</u>	<u>LOCATION</u>
Gretchen Preneta, P.A.-C	Konrad Barth, M.D.	Scarborough
Rochelle Loeb, P.A.-C	Michelle Toder, M.D.	Bangor
Erin Bateman, P.A.-C	John Baker, M.D.	Newport
Michael Luck, P.A.-C	Michael Klein, M.D.	Waterville

XIV. STANDING COMMITTEE REPORTS

A. ADMINISTRATION, POLICY & RULES COMMITTEE

1. THIRD QUARTER FINANCIAL REPORT

The Board reviewed the third quarter financial report 7/1/10 – 3/31/2011 which showed revenues down by \$158,798 under the projected budgeted amount.

B. LEGISLATIVE AND REGULATORY COMMITTEE

C. PHYSICIAN ASSISTANT ADVISORY COMMITTEE

1. DAVID A. LOXTERKAMP, M.D. –UNIVERSITY OF NEW ENGLAND NOMINEE FOR APPOINTMENT TO PA COMMITTEE

Dr. Jones moved to appoint David A. Loxterkamp, M.D. to serve on the Physician Assistant Advisory Committee. Dr. Dreher seconded the motion, which passed unanimously.

XV. BOARD CORRESPONDENCE (FYI)

XVI. FYI

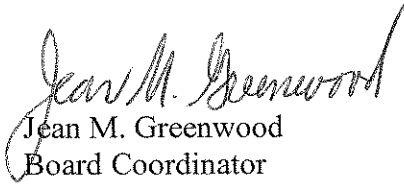
XVII. FSMB MATERIAL (FYI)

XVIII. OTHER BUSINESS (NONE)

XIX. ADJOURNMENT 2:27 P.M.

Dr. Jones moved to adjourn. Ms. Clukey seconded the motion, which passed unanimously.

Respectfully submitted,



Jean M. Greenwood
Board Coordinator

APPROVED CONSENT AGREEMENTS

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:) CONSENT AGREEMENT
John M. Dorn, M.D.)
Complaint Nos. CR09-439/CR10-099/CR11-163)

This document is a Consent Agreement, effective when signed by all parties, regarding a disciplinary action concerning the license to practice medicine in the State of Maine held by John M. Dorn, M.D. The parties to the Consent Agreement are: John M. Dorn, M.D. ("Dr. Dorn"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General. This Consent Agreement is entered into pursuant to 10 M.R.S.A. § 8003(5)(B) and 32 M.R.S.A. § 3282-A.

STATEMENT OF FACTS

1. Dr. Dorn has held an active license to practice medicine in the State of Maine since May 15, 2007. Dr. Dorn specializes in psychiatry. On his application for Maine medical licensure, Dr. Dorn indicated that "In 1990 the estranged husband of a former patient claimed that I had acted improperly on one occasion, after I had discharged the patient from therapy, by accepting her invitation to have drinks, which was followed by consensual intercourse." Sexual intercourse with a patient or former patient is a serious ethical and boundary violation in the practice of psychiatry.¹ On that same application,

¹ See The American Psychiatric Association's The Principles of Medical Ethics With Annotations Especially Applicable to Psychiatry; Maine Board of Licensure in Medicine Rules, Chapter 10, Sexual Misconduct.

Dr. Dorn affirmed under penalties of perjury that he answered all questions “completely” and that the information he provided was “true and correct.” However, on that application for licensure, Dr. Dorn did not disclose the finding by the Board of Medical Examiners of South Carolina that he had engaged in sexual misconduct with a patient with whom the physician-patient relationship had not terminated until after the sexual misconduct came to light. Based upon Dr. Dorn’s answers on the application for licensure, the Board granted Dr. Dorn a license to practice medicine in the State of Maine.²

2. Prior to practicing medicine in Maine, Dr. Dorn practiced medicine in South Carolina and Pennsylvania, as well as Illinois.

a. South Carolina.

On February 6, 1990, the State Board of Medical Examiners of South Carolina indefinitely suspended Dr. Dorn’s medical license, subject to reinstatement within six months with probation and conditions, based upon his having had sexual intercourse with a female patient. Although Dr. Dorn asserted that the sexual intercourse occurred after the physician-patient relationship had terminated, the Board of Medical Examiners of South Carolina found that he had written two prescriptions for the patient on the same date as the sexual misconduct. In addition, the Board of Medical Examiners of South Carolina concluded that Dr. Dorn’s physician-patient relationship “was not terminated until sometime after... [the] sexual misconduct with the patient

² Dr. Dorn wishes to note that, should the matter have gone to hearing, he would have testified that, at the time of his applications to Maine, Pennsylvania and Illinois, he was no longer in possession of a copy of the South Carolina Final Order, and it was not his intention to mislead any licensing board.

came to light.” As a result, the Board of Medical Examiners of South Carolina found that Dr. Dorn’s misconduct violated multiple laws of South Carolina and the Principles of Medical Ethics adopted by the Board. A copy of the Final Order issued by the State Board of Medical Examiners of South Carolina dated August 22, 1990 is attached to this Consent Agreement as “Exhibit 1.”

b. Pennsylvania.

On August 27, 1991, the Commonwealth of Pennsylvania State Board of Medicine entered into a consent agreement with Dr. Dorn for the surrender of his medical license in that state based upon this same conduct.

On June 5, 1998, Dr. Dorn requested that the Commonwealth of Pennsylvania reinstate his medical license. The Commonwealth of Pennsylvania held a hearing on Dr. Dorn’s request, and issued findings and an order reinstating his license with conditions. The findings included: Dr. Dorn’s admission of having had sexual intercourse with a former female psychiatric patient several weeks after discharging her from his care; Dr. Dorn’s admission that such conduct was an improper sexual boundary violation; Dr. Dorn suffered from untreated bipolar disorder and alcoholism at the time of the misconduct; Dr. Dorn accepted full responsibility for his misconduct and had received treatment for his bipolar disorder and alcoholism; and that Dr. Dorn achieved sufficient recovery from these issues to be issued a conditional medical license in Pennsylvania. On October 13, 1998, the Commonwealth of Pennsylvania reinstated Dr. Dorn’s medical license in that state with

conditions, including substance abuse treatment and monitoring and supervision of his medical practice.

3. On or about September 19, 2009, the Board received a complaint against Dr. Dorn from DP, the sister of a patient of Dr. Dorn. The Board docketed that complaint as CR09-439. DP alleged that Dr. Dorn – in her presence – made inappropriate statements and gestures of a sexual nature to her sister who is a severely disturbed elderly woman. Specifically, DP alleged that Dr. Dorn told her sister that she could “slap his buttocks” while “raising his outerwear to expose his buttocks.” In addition, DP “was astonished at [Dr. Dorn’s] inquiry into the length of time since [her sister] had sexual intercourse.”

4. On or about December 14, 2009, the Board received a response from Dr. Dorn to Complaint No. CR09-439. In his response, Dr. Dorn described his diagnosis of the patient, which included dementia, and his advocacy on her behalf. Dr. Dorn described the patient as using vulgar, sexual language that suggested “sexual preoccupation.” Dr. Dorn indicated that during the patient session attended by DP, he asked the patient about her sexual history “in order to again respond to and attempt to resolve [the patient’s] sexual preoccupation.” In addition, Dr. Dorn admitted that during the patient session attended by DP that he offered himself as “a target” for the patient to slap his buttocks in order to confront her about this type of behavior towards others and demonstrate that it was inappropriate.

5. On or about August 18, 2010, the Board obtained an outside expert review of Dr. Dorn's conduct during the patient session attended by DP. According to that review, despite his use of profanity with the patient, Dr. Dorn may have been an excellent psychiatrist for the patient. However, the review also indicated that Dr. Dorn's statements and behavior clearly shocked DP because he "failed to effectively convey" the therapeutic intent of his behavior to DP. According to the review, DP "clearly did not understand this idiosyncratic method of engagement because Dr. Dorn had not prepared her for the strangeness and/or offensiveness of the encounter. In this sense in the meeting prior to it Dr. Dorn failed to take the time to discover who DP was and to learn her understanding of her sister's mental functioning... it might have been possible to justify the provocative behavior, but Dr. Dorn acted impulsively and with inadequate explanation to [DP]. In this respect it was poor clinical judgment." In addition, the review found that Dr. Dorn's repeated inquiry in to the patient's sexual history would be hard to justify, "but more problematic is Dr. Dorn's crudeness about sexual matters and his lack of understanding of [DP's] cultural background and of self-awareness of how unattractive he was making himself." As a result, the review concluded that Dr. Dorn's conduct as described was not consistent with the standard of care.

6. On or about February 12, 2010, the Board received a complaint against Dr. Dorn filed by patient JH. The Board docketed the complaint as CR10-099. According to JH, Dr. Dorn gave her "full on, full body bear hugs;" called her husband a "redneck" and told her that she could do better, that he

could help her find someone like him, and that he was the perfect man for her; and sat on the couch with his arm around her during therapy sessions. In addition, according to JH, she became uncomfortable with Dr. Dorn's behavior called his office and told the receptionist to cancel her next appointment and that she did not want a return call as she would be seeing a different physician. According to JH, Dr. Dorn called her a short time later and tried to convince her to stay on as his patient. JH described Dr. Dorn as sounding upset and angry during this conversation, which led her to tell him that she would see him again. After hanging up with Dr. Dorn, JH called her new physician to discuss what happened.

7. On or about March 27, 2010, the Board received a response from Dr. Dorn to complaint CR10-099. In his response, Dr. Dorn described his diagnosis and treatment of JH, including prescribing medication for paranoia. Dr. Dorn admitted that he referred to JH's husband as a "redneck" when discussing her marriage and admitted that he suggested to JH that she find a partner who better met her needs. Dr. Dorn also admitted that he has hugged patients – male and female – and that if a patient is in acute distress or wants to "show him something" then seat himself next to the patient. According to Dr. Dorn, he no longer hugs or sits next to patients because "it makes some patients uncomfortable." Dr. Dorn did not deny giving JH a full body hug or putting his arm around her while sitting next to her on the couch. Dr. Dorn admitted that he spoke with JH and that he was surprised that she was

transferring to another doctor, but denied intending to bully her into continuing therapy with him.

8. On or about August 18, 2010, the Board obtained an outside expert review of Dr. Dorn's conduct during his treatment of patient JH. According to the review, Dr. Dorn's medical records demonstrate his earnest attempts to treat JH's anxiety, depression and tendency towards paranoia. The review noted that the medical records do not suggest that Dr. Dorn intended to exploit JH or that he saw himself as seductive when he promoted his suitability as a spouse in comparison to JH's husband. However, the review also noted the following deficiencies with regard to Dr. Dorn's behavior towards JH: Dr. Dorn did not address the appropriateness of hugging patients, including JH, and that such conduct constituted a boundary violation and was not consistent with the standard of care; Dr. Dorn did not address the appropriateness of sitting next to patients, including JH, and putting his arm around them, which constituted a boundary violation and was not consistent with the standard of care; Dr. Dorn's hugging and sitting next to JH with his arm around her constituted poor clinical judgment in light of his diagnosis of paranoid features in JH; Dr. Dorn did not document JH's alleged paranoid mental state in careful, repetitive mental status examinations; and Dr. Dorn's intrusion of his emotions about his illness into JH's treatment, while understandable, was not consistent with the standard of care.

9. On September 14, 2010, the Board reviewed Complaint Nos. CR09-439 and CR10-099. Following its review, the Board voted to schedule the

matters for an adjudicatory hearing. The Board scheduled the hearing for May 10, 2011, and sent Dr. Dorn a notice of hearing regarding the hearing in March 2011.

10. On or about April 11, 2011, the Board received a complaint against Dr. Dorn from LS, the husband of MB, a patient of Dr. Dorn. The Board docketed that complaint as CR11-163. LS alleged that Dr. Dorn was having an inappropriate relationship with his wife, MB, who admitted to that she had kissed and hugged Dr. Dorn. In addition, LS provided the Board with copies of: (a) e-mails dated April 6-7, 2011, which Dr. Dorn sent to MB on her Blackberry cellular phone expressing romantic and sexual feelings towards her; and (b) voice mails that Dr. Dorn left for MB in which he asked her to call him and stated, "I love you."

11. On or about April 12, 2011, the Board reviewed complaint CR11-163, and voted to summarily suspend Dr. Dorn's Maine medical license because his continued licensure and ability to treat patients placed the mental and physical safety of his patients in immediate jeopardy, and delaying this action until after affording Dr. Dorn a full hearing would not adequately respond to the known risk associated with Dr. Dorn's continued practice of medicine.

12. On or about April 14, 2011, the Board staff obtained information from the Prescription Monitoring Program (P.M.P.), which indicated that Dr. Dorn had prescribed a controlled drug to MB on February 22, 2011. The Board's investigator

subsequently obtained from the pharmacy a copy of the prescription issued by Dr. Dorn to MB.

13. As further factual background, and not as a justification of his actions, Dr. Dorn was being treated with radiation and other therapy for throat cancer at the time of complaints CR09-439/CR10-099. In the spring of 2011, he was diagnosed with multiple sclerosis.

14. Absent Dr. Dorn's acceptance of the terms and conditions of this Consent Agreement for Conditional Licensure by signing it and dating it, having it notarized, and returning it to Maureen Lathrop, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before April 29, 2011, the Board shall hold adjudicatory hearing regarding all of these complaints on May 10, 2011.

15. This Consent Agreement has been negotiated by legal counsel to the Board and legal counsel to Dr. Dorn. By signing this Consent Agreement, Dr. Dorn waives any and all objections to, and hereby consents to allow the Board's legal counsel to present this proposed Consent Agreement to the Board for possible ratification on May 10, 2011. Dr. Dorn also forever waives any arguments of bias or otherwise against any of the Board members solely based upon their failure to ratify this proposed Consent Agreement.

COVENANTS

16. While not agreeing with each and every fact as set out above, Dr. Dorn admits that the Board has sufficient evidence from which it could reasonably conclude that he: (1) failed to disclose on his application for

licensure that he had engaged in a prior sexual boundary violation with a then-current patient to whom he was prescribing medication; (2) committed boundary violations with regard to his treatment of the patients in Complaint Nos. CR09-439 and CR10-099; and (3) engaged in inappropriate conduct with MB in violation of Board Rule, Chapter 10, by hugging and kissing her, and by attempting to engage in a romantic and sexual relationship with MB with regard to Complaint No. CR11-163. Dr. Dorn admits that the foregoing conduct constitutes unprofessional conduct and grounds for discipline pursuant to 32 M.R.S.A. § 3282-A(2)(F).

17. In light of Dr. Dorn's admissions in paragraph 16 above, the Board agrees to issue, and Dr. Dorn agrees to accept the following discipline:

a. A REPRIMAND. In light of Dr. Dorn's prior history of sexual misconduct with a patient – which constituted both an ethical and boundary violation with a patient and resulted in serious disciplinary action – he should have been well-aware of the importance of maintaining appropriate physician-patient boundaries. In addition, at the time he committed new ethical and boundary violations regarding patient MB in April 2011, Dr. Dorn was aware of two pending complaints regarding serious ethical and boundary violations he allegedly committed with two female patients, and that those complaints were scheduled for hearing before the Board in May 2011. Dr. Dorn's misconduct represents a serious breach of trust, had the potential to cause harm to patients, and brings discredit upon himself and the practice of psychiatric medicine.

b. The immediate and permanent REVOCATION of his license to practice medicine in the State of Maine effective May 10, 2011.

18. Dr. Dorn has been represented by Roger J. Katz, Esq., in the negotiation of the terms of this Consent Agreement.

19. Dr. Dorn waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement.

20. This Consent Agreement is not appealable and is effective until modified or rescinded in writing by all the parties hereto.

21. The Board and the Office of the Attorney General may communicate and cooperate regarding Dr. Dorn or any other matter relating to this Consent Agreement.

22. This Consent Agreement is a public record within the meaning of 1 M.R.S.A. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S.A. § 408.

23. This Consent Agreement constitutes adverse licensing action that is reportable to the National Practitioner Data Bank (N.P.D.B.) and the Healthcare Integrity and Protection Data Bank (H.I.P.D.B.).

24. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.

I, JOHN M. DORN, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED:

4/27/11


JOHN M. DORN, M.D.

STATE OF

Maine

Ambulatory

, S.S.

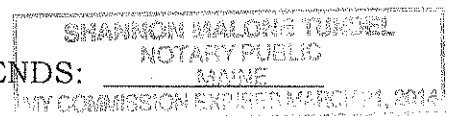
Personally appeared before me the above-named John M. Dorn, M.D., and swore to the truth of the foregoing based upon ~~her~~ own personal ^{his} knowledge, or upon information and belief, and so far as upon information and belief, ~~she~~ believes it to be true.

DATED:

4/27/11


NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS:



STATE OF MAINE

BOARD OF LICENSURE IN MEDICINE


DATED:

5/10/2011


SHERIDAN R. OLDHAM, M.D., Chairman


DATED:

4/28/11


ROGER J. KATZ, Esq., Attorney for Dr. Dorn

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: 5/10/11



DENNIS E. SMITH
Assistant Attorney General

Effective Date: 5/10/11

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)	CONSENT
Patrick Fallon, M.D.)	AGREEMENT
Complaint No. CR10-163)	

This document is a Consent Agreement, effective when signed by all parties, regarding a disciplinary action concerning and conditions imposed upon the license to practice medicine in the State of Maine held by Patrick Fallon, M.D. The parties to the Consent Agreement are: Patrick Fallon, M.D. ("Dr. Fallon"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General. This Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5)(B) and 32 M.R.S. § 3282-A.

STATEMENT OF FACTS

1. Dr. Fallon has held a license to practice medicine in the State of Maine since July 21, 1994, and specializes in Orthopedic Surgery.
2. On or about May 10, 2010, the Board received a complaint from RB, who alleged that his wife, AB, was a patient of Dr. Fallon and that Dr. Fallon was having an inappropriate relationship with her. The Board docketed that complaint as CR10-163, and sent it to Dr. Fallon for a response.
3. On or about May 27, 2010, the Board received a written response from Dr. Fallon to complaint CR10-163. In his response, Dr. Fallon admitted that AB had been his patient, denied having an inappropriate relationship with AB, described his business relationship with AB – including face to face

meetings at various public locations - and stated that "the only other communications we have had include one or two brief phone conversations."

4. On or about June 16, 2010, the Board received additional information from RB, including copies of GPS records for the vehicle driven by AB, and a copy of telephone records that indicated over 60 telephone calls between AB and Dr. Fallon between October 2009 and January 2010. Based upon this new information, the Board staff requested a subpoena to obtain the cell phone records of Dr. Fallon.

5. On or about December 3, 2010, the Board staff obtained copies of Dr. Fallon's telephone records, which indicated multiple telephone and text contacts with AB.

6. On or about February 8, 2011, the Board reviewed complaint CR10-163, including Dr. Fallon's response and all investigative information obtained to date, and voted to investigate the matter further by conducting an interview with AB and Dr. Fallon regarding the telephone records. Board staff subsequently contacted Dr. Fallon, through his legal counsel, to schedule an interview.

7. On or about February 24, 2011, the Board received a letter from Dr. Fallon. In that letter, Dr. Fallon expressed tremendous remorse about providing the Board with misinformation in his initial response to the complaint. Dr. Fallon then admitted the facts set forth in RB's complaint and that he pursued a relationship with AB who was also a patient. Dr. Fallon

admitted that he was “completely and totally wrong” with respect to his actions, expressing sincere regret for his actions.

8. On March 8, 2011, the Board again reviewed complaint CR10-163, including Dr. Fallon’s letter received on or about February 24, 2011. Following its review, the Board voted to schedule the matter for an adjudicatory hearing. In addition, the Board authorized its assigned legal counsel to negotiate a consent agreement to resolve complaint CR10-163 without hearing.

9. This Consent Agreement has been negotiated by and between legal counsel for Dr. Fallon and legal counsel for the Board in order to resolve complaint CR10-163 without an adjudicatory hearing. Absent Dr. Fallon’s acceptance of this Consent Agreement by signing and dating it in front of a notary and mailing it to Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before April 29, 2011, the matter will be scheduled for an adjudicatory hearing. In addition, absent the Board’s acceptance of this Consent Agreement by ratifying it on May 10, 2011, the matter will be scheduled for an adjudicatory hearing.

10. By signing this Consent Agreement, Dr. Fallon and his legal counsel waive any and all objections to, and hereby consent to the presentation of this Consent Agreement to the Board by its assigned legal counsel for possible ratification on May 10, 2011. Dr. Fallon and his legal counsel also forever waive any arguments of bias or otherwise against any of the Board members based solely upon the Board’s failure to ratify this proposed Consent Agreement.

COVENANTS

In lieu of proceeding to an adjudicatory hearing in this matter, Dr. Fallon agrees to the following :

11. Dr. Fallon admits that with regard to complaint CR10-163 the Board has sufficient evidence from which it could reasonably conclude that he engaged in unprofessional conduct by: (a) engaging in an inappropriate relationship with patient AB, with whom he had a physician-patient relationship; and (b) providing the Board with false information in his response to the complaint. Dr. Fallon admits that the Board has sufficient evidence from which it could conclude that such conduct constitutes unprofessional conduct and grounds for discipline of his Maine medical license pursuant to 32 M.R.S.A. § 3282-A(2)(F).

12. As discipline for the conduct described in paragraph 11 above, Dr. Fallon agrees to accept, and the Board agrees to issue, the following discipline effective upon execution¹ of this Consent Agreement:

a. A REPRIMAND. Dr. Fallon is hereby reprimanded by the Board for engaging in unethical and unprofessional conduct both with regard to his inappropriate relationship with patient AB and his providing false and misleading information to the Board. As Dr. Fallon acknowledged in his letter dated February 24, 2011, this conduct resulted in a breach of trust on multiple levels. Dr. Fallon agrees never to engage in this type of conduct again.

¹ For the purposes of this Consent Agreement, "execution" shall mean the date on which the final signature is affixed to this Consent Agreement.

b. Pay a FINE of Ten Thousand Dollars and Zero Cents (\$10,000.00). However, payment of Four Thousand Dollars (\$4,000.00) of the fine is suspended so long as Dr. Fallon complies with all of the terms and conditions of this Consent Agreement, including all of the reporting requirements. Dr. Fallon shall ensure that he pays the unsuspended monetary fine Of Six Thousand Dollars (\$6,000.00) within six (6) months following the execution of this Consent Agreement. Payment shall be made by certified check or money order made payable to "Treasurer, State of Maine," and be remitted to Maria MacDonald, Investigator, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137. Dr. Fallon agrees that, in the event that he fails to meet any of the reporting or other time requirements set out in this Consent Agreement (without having requested an extension prior to the due date and having that request granted by the Board), the Board may, in its sole discretion, summarily and without an adjudicatory hearing, "activate" any or all of the amount of the suspended fine. The Board shall notify Dr. Fallon in writing of the activation of all or a portion of the suspended fine. Dr. Fallon agrees and understands that he must pay the amount of the fine "activated" by the Board within 30 days of receiving notice that the fine was activated. Payment shall be by cashier's check or money order made out to "Treasurer, State of Maine." In addition, the parties agree and understand that the Board's decision not to "activate" all or a portion of the suspended fine for one instance of noncompliance with a reporting or other time requirement does not constitute a waiver of the Board's right to "activate"

all or a portion of the fine regarding a subsequent instance of non-compliance. If Dr. Fallon fails to pay an “activated” fine within the 30 days as provided by this section, the Board may “activate” all or a portion of the remaining portion of the “suspended” fine. Any decision by the Board pursuant to this section does not require an adjudicatory hearing and is non-appealable.

c. A LICENSE SUSPENSION of thirty (30) days commencing upon the execution of this Consent Agreement.

d. A LICENSE PROBATION for five (5) years following the execution of this Consent Agreement. As specific conditions of probation, Dr. Fallon shall:

(i) Notify the Board in writing of any and all current locations where he practices medicine. In complying with this condition, Dr. Fallon shall notify the Board in writing of any change(s) in the location(s) of his practice of medicine within seven (7) days of any such change(s).

(ii) Permit the Board or its agent(s) complete access to Dr. Fallon’s portion of any medical practice where he is employed, including but not limited to all patient records.

(iii) Permit the Board or its agent(s) to conduct random and/or announced inspections of Dr. Fallon’s portion of any medical practice where he is employed. Dr. Fallon shall bear the cost of any such inspection(s) by the Board or its agent(s).

(iv) Enroll in, attend, and successfully complete a Board-approved substantive course in medical ethics and boundaries within six (6)

months following the execution of this Consent Agreement. The ethics and boundaries course must cover the topic of appropriate patient-physician boundaries. Dr. Fallon shall provide the Board with documentation of the successful completion of this course in medical ethics and boundaries within six (6) months following the execution of this Consent Agreement.

(vi) Within thirty (30) days following the execution of this Consent Agreement, Dr. Fallon must have a Board-approved practice monitor who shall monitor his medical practice. In complying with this requirement, Dr. Fallon shall submit to the Board for its approval the name of a proposed practice monitor, whom the Board has the sole discretion to approve or deny. The monitoring physician must be in direct contact with Dr. Fallon and observe him within his medical practice at least once a week, and inform the Board if Dr. Fallon demonstrates any issues with regard to isolation, inappropriate boundaries or decision-making, incompetence, unprofessionalism or any other concerns. The monitoring physician shall report such information to the Board by telephone and in writing within 24 hours or as soon thereafter as possible. Dr. Fallon understands that the monitoring physician will be an agent of the Board pursuant to Title 24 M.R.S. § 2511. Dr. Fallon shall permit the monitoring physician full access to his medical practice, including but not limited to all patient information. The Board-approved monitor shall provide the Board with reports regarding Dr. Fallon's medical practice on or before October 9th, January 9th, April 9th, and July 9th of each year following the execution of this Consent Agreement.

(vii) Within one (1) year of the execution of this Consent Agreement, Dr. Fallon shall reimburse the Board One Thousand Dollars and Zero Cents (\$1,000.00) as the actual costs incurred by the Board for the investigation of this matter. Payment shall be made by certified check or money order made payable to "Maine Board of Licensure in Medicine" and be remitted to Maria MacDonald, Investigator, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

13. Violation by Dr. Fallon of any of the terms or conditions of this Consent Agreement shall constitute grounds for discipline, including but not limited to modification, suspension, or revocation of licensure or the denial of re-licensure.

14. Pursuant to 10 M.R.S.A. § 8003(5) the Board and Dr. Fallon agree that the Board has the authority to issue an order, following notice and hearing, modifying, suspending or revoking his license in the event that he fails to comply with any of the terms or conditions of this Consent Agreement.

15. Dr. Fallon waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Dr. Fallon agrees that this Consent Agreement and Order is a final order resolving complaint CR10-163. This Consent Agreement is not appealable and is effective until modified or rescinded by the parties hereto. This Consent Agreement cannot be amended orally. It can only be amended by a writing signed by the parties hereto and approved by the Office of Attorney General. Requests for amendments by Dr. Fallon shall be made in writing and

submitted to the Board. Dr. Fallon may, at reasonable intervals, petition the Board for amendment of the terms and conditions of this Consent Agreement. Upon making such a petition, Dr. Fallon shall bear the burden of demonstrating that the Board should amend the Consent Agreement. The Board shall have the discretion to: (a) deny Dr. Fallon's petition; (b) grant Dr. Fallon's petition; and/or (c) grant Dr. Fallon's petition in part as it deems appropriate to ensure the protection of the public. Any decision by the Board on this issue need not be made pursuant to a hearing and is not appealable.

16. The Board and the Office of the Attorney General may communicate and cooperate regarding Dr. Fallon or any other matter relating to this Consent Agreement.

17. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408.

18. This Consent Agreement constitutes discipline and is an adverse licensing action that is reportable to the National Practitioner Data Bank (NPDB), the Healthcare Integrity and Protection Data Bank (HIPDB), and the Federation of State Medical Boards (FSMB).

19. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto, including any and all medical practice partners. If any clause of this Consent Agreement is deemed illegal or invalid, then that clause shall be deemed severed from this Consent Agreement.

20. The Board and Dr. Fallon agree that no further agency or legal action will be initiated against him by the Board based upon the facts described herein, except or unless he fails to comply with the terms and conditions of this Consent Agreement. The Board may however consider the conduct described above as evidence of a pattern of misconduct in the event that similar proven allegations are brought against Dr. Fallon in the future. The Board may also consider the fact that discipline was imposed by this Consent Agreement in determining appropriate discipline in any further complaints against Dr. Fallon's license.

21. Dr. Fallon acknowledges by his signature hereto that he has read this Consent Agreement, that he has had an opportunity to consult with an attorney before executing this Consent Agreement, that he executed this Consent Agreement of his own free will and that he agrees to abide by all terms and conditions set forth herein.

22. Dr. Fallon has been represented by James F. Martemucci, Esq., who has participated in the negotiation of the terms of this Consent Agreement.

I, PATRICK FALLON, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED:

April 26/11


PATRICK FALLON, M.D.

STATE OF

Maine

_____, S.S.

Personally appeared before me the above-named Patrick Fallon, M.D., and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED:

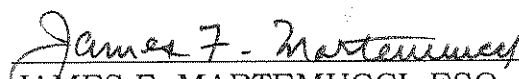
4-26-11


NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS: 10-19-2017

DATED:

4/28/11


JAMES F. MARTEMUCCI, ESQ.
ATTORNEY FOR PATRICK FALLON, M.D.

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED:

5/10/2011


SHERIDAN R. OLDHAM, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED:

5/10/11



DENNIS E. SMITH
Assistant Attorney General

Effective Date: 5/10/11

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)	CONSENT
Joshua P. Werblin, M.D.)	AGREEMENT
Complaint No. CR10-525)	

This document is a Consent Agreement, effective when signed by all parties, regarding a disciplinary action concerning the license to practice medicine in the State of Maine held by Joshua P. Werblin, M.D. The parties to the Consent Agreement are: Joshua P. Werblin, M.D. ("Dr. Werblin"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General. This Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5)(B) and 32 M.R.S. § 3282-A.

STATEMENT OF FACTS

1. The Board issued Dr. Werblin a Temporary Maine medical license on June 16, 2010. That license expired on December 16, 2010. Dr. Werblin specializes in Child and Adolescent Psychiatry.

2. On or about September 24, 2010, a pharmacist in Bangor contacted Detective Peter Lizanecz of the Office of Attorney General and advised that Dr. Werblin had been writing non-controlled prescriptions for himself and recently issued a prescription for his girlfriend. Detective Lizanecz subsequently investigated the matter, and learned the following facts:

a. Dr. Werblin began practicing in Maine at The Acadia Hospital in Bangor in June 2010.

b. Dr. Werblin began writing prescriptions for himself in July 2010. Dr. Werblin advised the pharmacy that he was new to the area and was

having trouble establishing himself with a new physician. The pharmacy did not have a policy prohibiting the filling of such prescriptions.

c. Between July and September 2010, Dr. Werblin issued 15 prescriptions for drugs for himself. In addition, Dr. Werblin issued 4 prescriptions to his girlfriend, AT.

d. On September 22, 2010, AT presented a written "Acadia Hospital/Acadia Healthcare" prescription issued by Dr. Werblin for the medication "Concerta" 54 mg, 60 tabs BID¹ and dated September 15, 2010, to the pharmacy. The pharmacist was concerned about the high dosage of the prescription since AT had not previously taken this medication. As a result, the pharmacist attempted to contact Dr. Werblin at Acadia Hospital to discuss the dosage, who was not immediately available. However, the pharmacist learned that AT was not a patient at Acadia Hospital. Dr. Werblin later contacted the pharmacy by telephone and advised a pharmacy technician that the dosage was appropriate because AT was switching over from "MetaDate CD." AT subsequently returned to the pharmacy to pick up the medication, but her insurance refused to cover it so it was not dispensed to her. Within ten to fifteen minutes of AT's departure from the pharmacy, Dr. Werblin appeared at the drive-through window of the pharmacy and presented a written prescription for "Concerta" 54 mg, 60 tabs, QD² dated September 22, 2010, issued by J.M., a physician in Olympia, Washington. A pharmacist called JM's medical practice in Olympia, Washington to speak with the prescribing

¹ "BID" is an abbreviation for the Latin "bis in die," which means "two times a day."

² "QD" is an abbreviation for the Latin "quaque die," which means "every day."

physician, who was not immediately available. However, the pharmacist learned that Dr. Werblin was not a patient of that medical practice.³ As a result, the pharmacist suspected that the prescription that Dr. Werblin had issued to AT was actually meant for his own use and contacted the Board.

e. On October 29, 2010, Detective Lizanecz spoke with Dr. Werblin regarding this matter. Dr. Werblin admitted that he began working at Acadia Hospital in June 2010 and that AT was his girlfriend with whom he resided. Dr. Werblin admitted that AT was not a patient of his or of Acadia Hospital. Dr. Werblin admitted issuing prescriptions both for AT and for himself. According to Dr. Werblin, when he arrived in Maine he had no primary care physician so he began self-prescribing drugs. Dr. Werblin stated that he had self-prescribed in other practice settings without issues, and that the pharmacy involved in this matter had advised him that it could fill his self-prescriptions for a while. Dr. Werblin stated that at some point the pharmacy advised him that it would no longer fill the prescriptions that he issued for himself. Dr. Werblin was shown a copy of the prescription dated September 15, 2010 for "Concerta" issued to AT, admitted that he wrote it as he knew the pharmacy would not fill it if he made it out to himself, and that the medication was actually intended for his own personal use. Dr. Werblin stated that he could not function without the medication. Dr. Werblin admitted that his actions as "an exercise in very poor judgment." In addition, Dr. Werblin admitted that he was not a patient of J.M., whom he described as a friend and

³ On September 23, 2010, the prescribing physician contacted the pharmacy and confirmed the prescription.

former co-worker who he contacted when AT was unable to obtain the "Concerta" medication from the pharmacy. In addition, Dr. Werblin stated that Acadia Hospital was not aware that he had used their prescription pad for the written prescription dated September 15, 2010, that he issued to AT. Dr. Werblin was shown a copy of the pharmacy profile for AT, and admitted issuing all of the prescriptions for her.

f. On July 1, 2010, Dr. Werblin's Federal DEA registration expired because he had not responded to renewal notices sent to an address in Seattle, Washington. Dr. Werblin had failed to notify the Federal DEA of his change of address and practice location. Once AG Detective Lizanecz notified Dr. Werblin that his DEA registration was no longer effective, Dr. Werblin took steps to contact the Federal DEA and obtain reinstatement of his DEA registration which remains current and unrestricted.

3. On November 9, 2010, the Board reviewed the foregoing information and voted to initiate a complaint against Dr. Werblin's Maine medical license pursuant to 32 M.R.S. § 3282-A. The Board docketed the complaint as CR10-525.

4. On December 16, 2010, Dr. Werblin's Temporary Maine medical license expired.

5. On February 9, 2011, the Board received a response from Dr. Werblin to complaint CR10-525. Dr. Werblin admitted that he had prescribed medications for himself and his girlfriend, AT, because they had difficulty securing new physicians after moving to Maine in June 2010. Dr. Werblin

expressed regret for his errors in judgment, and asserted that he was not aware that his DEA registration had lapsed or that his self-prescribing violated any medical practice laws. In addition, Dr. Werblin provided letters from his former physicians, who prescribed medications to Dr. Werblin prior to his move to Maine. According to those letters, Dr. Werblin had been prescribed five (5) of the ten (10) medications that Dr. Werblin had been prescribing for himself in Maine, including the same dosages.

6. On or about March 8, 2011, the Board reviewed Complaint CR10-525, and voted to schedule the matter for an adjudicatory hearing. In addition, the Board authorized its legal counsel to negotiate a consent agreement with Dr. Werblin that resolved Complaint CR10-525 without an adjudicatory hearing.

7. This Consent Agreement has been negotiated by and between legal counsel for Dr. Werblin and legal counsel for the Board in order to resolve complaint CR10-525 without an adjudicatory hearing. Absent Dr. Werblin's acceptance of this Consent Agreement by signing and dating it in front of a notary and returning it to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before May 23, 2011, the matter will proceed to an adjudicatory hearing.

COVENANTS

In lieu of proceeding to an adjudicatory hearing in this matter and for the sole purpose of resolving this matter, Dr. Werblin agrees to the following:

8. Dr. Werblin admits that with regard to complaint CR10-525 the Board has sufficient evidence from which it could reasonably conclude that he: (a) self-prescribed controlled drugs (engaged in self-treatment); (b) provided medical treatment, including prescribing controlled drugs to AT, with whom he had a close, personal relationship; and (c) failed to create and maintain appropriate medical records regarding his treatment of AT and his prescribing controlled drugs to AT. Dr. Werblin admits that such conduct constitutes unprofessional conduct and grounds for discipline of his Maine medical license pursuant to 32 M.R.S. § 3282-A(2)(F).

9. For the conduct described in paragraphs 1-8 above, Dr. Werblin agrees to accept, and the Board agrees to issue, the following discipline effective upon the execution⁴ of this Consent Agreement:

a. A REPRIMAND. Dr. Werblin agrees that self-treating/self-prescribing controlled drugs, treating/prescribing controlled drugs to someone with whom he is in a close personal relationship, and failing to create medical records is inappropriate. Dr. Werblin admits that such conduct negatively reflects upon the practice of medicine. Dr. Werblin shall take all measures necessary to ensure that such conduct does not again occur.

b. Pay a FINE of Four Thousand Dollars and Zero Cents (\$4,000.00). However, payment of one half of the fine (\$2,000.00) is suspended so long as Dr. Werblin complies with all of the terms and conditions of this

⁴ For the purposes of this Consent Agreement, "execution" means the date on which the final signature is affixed to this Consent Agreement.

Consent Agreement, including timely completion of all requirements and reports to the Board. Dr. Werblin shall ensure that he pays the unsuspended monetary fine (\$2,000.00) within six (6) months following the execution of this Consent Agreement. Payment shall be made by certified check or money order made payable to "Treasurer, State of Maine," and be remitted to Maria MacDonald, Investigator, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137. Dr. Werblin agrees that, in the event that he fails to meet any of the reporting or other time requirements set out in this Consent Agreement (without having requested an extension prior to the due date and having that request granted by the Board), the Board may, in its sole discretion, summarily and without an adjudicatory hearing, "activate" any or all of the amount of the suspended fine. The Board shall notify Dr. Werblin in writing of the activation of all or a portion of the suspended fine. Dr. Werblin agrees and understands that he must pay the amount of the fine "activated" by the Board within 30 days of receiving notice that the fine was activated. Payment shall be by cashier's check or money order made out to "Treasurer, State of Maine." In addition, the parties agree and understand that the Board's decision not to "activate" all or a portion of the suspended fine for one instance of noncompliance with a reporting or other time requirement does not constitute a waiver of the Board's right to "activate" all or a portion of the fine regarding a subsequent instance of non-compliance. If Dr. Werblin fails to pay an "activated" fine within the 30 days as provided by this section, the Board may "activate" all or a portion of the remaining portion of the

“suspended” fine. Any decision by the Board pursuant to this section does not require an adjudicatory hearing and is non-appealable.

c. Within twelve (12) months of the execution of this Consent Agreement, Dr. Werblin shall successfully complete courses pre-approved by the Board in the following areas:

- (i) Opioid prescribing;
- (ii) Ethics and Boundaries; and
- (iii) Medical Record-Keeping.

In complying with this requirement, Dr. Werblin shall provide written (documentary) proof of his successful completion of the foregoing pre-approved courses to the Board, which courses shall be paid for by Dr. Werblin.

10. Dr. Werblin waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Dr. Werblin agrees that this Consent Agreement is a final order resolving Complaint CR10-525. This Consent Agreement is not appealable.

11. The Board and the Office of the Attorney General may communicate and cooperate regarding Dr. Werblin or any other matter relating to this Consent Agreement.

12. Dr. Werblin acknowledges that, pursuant to Title 10 M.R.S. § 8003(5)(B), his failure to comply with any of the terms or conditions of this Consent Agreement shall constitute grounds for additional disciplinary action against his Maine medical license, including but not limited to an order, after hearing, modifying, suspending, or revoking his license.

13. Pursuant to 10 M.R.S. § 8003(5) the Board and Dr. Werblin agree that the Board has the authority to issue an order, following notice and hearing, modifying, suspending, revoking his license in the event that he fails to comply with any of the terms or conditions of this Consent Agreement.

14. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408.

15. This Consent Agreement constitutes disciplinary action that is reportable to the National Practitioner Data Bank (NPDB), the Healthcare Integrity and Protection Data Bank (HIPDB), and the Federation of State Medical Boards (FSMB).

16. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto. If any clause of this Consent Agreement is deemed illegal or invalid, then that clause shall be deemed severed from this Consent Agreement.

17. The Board and Dr. Werblin agree that no further agency or legal action will be initiated against him by the Board based upon the facts described herein, except or unless he fails to comply with the terms and conditions of this Consent Agreement. The Board may however consider the conduct described above in the event that allegations are brought against Dr. Werblin in the future. The Board may also consider the fact that discipline was imposed by this Consent Agreement in determining appropriate discipline in any further complaints against Dr. Werblin's license.

18. Dr. Werblin acknowledges by his signature hereto that he has read this Consent Agreement, that he has had an opportunity to consult with an attorney before executing this Consent Agreement, that he executed this Consent Agreement of his own free will and that he agrees to abide by all terms and conditions set forth herein.

19. Dr. Werblin has been represented by Ronald W. Schneider, Jr., Esq., who has participated in the negotiation of the terms of this Consent Agreement.

I, JOSHUA P. WERBLIN, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED:

0523/11


JOSHUA P. WERBLIN, M.D.

STATE OF

Maryland

Anne Arundel Co, S.S.

Personally appeared before me the above-named Joshua P. Werblin, M.D., and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED:

5/23/11


NOTARY PUBLIC/ATTORNEY



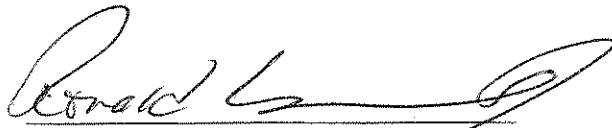
SUSAN NICKELSON
NOTARY PUBLIC
ANNE ARUNDEL COUNTY, MD.
MY COMMISSION EXPIRES 1/8/12

MY COMMISSION ENDS:

1/8/12

DATED:

5/28/11

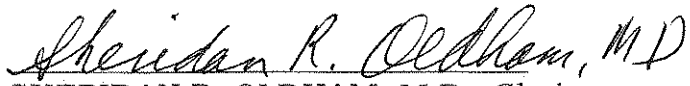


RONALD W. SCHNEIDER, JR., ESQ.
ATTORNEY FOR DR. WERBLIN

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED:

5/28/11



SHERIDAN R. OLDHAM, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED:

6/1/11



DENNIS E. SMITH
Assistant Attorney General

Effective Date:

6/1/11

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

IN RE:)	CONSENT AGREEMENT
KENG CHEONG LEONG, M.D.)	FOR DISCIPLINE AND
CR10-580)	RESTRICTED/CONDITIONAL
)	LICENSURE

This document is a Consent Agreement For Discipline and Restricted/Conditional Licensure, effective when signed by all parties, regarding discipline imposed upon and the issuance of an active conditional license to practice medicine in the State of Maine to Keng Cheong Leong, M.D. The parties to this Consent Agreement are: Keng Cheong Leong, M.D. ("Dr. Leong"), the State of Maine Board of Licensure in Medicine (the "Board") and the Maine Department of Attorney General.

STATEMENT OF FACTS

1. The Board first issued Dr. Leong a medical license on April 23, 1973. Dr. Leong specializes in Obstetrics and Gynecology (OB-GYN).
2. On August 24, 2010, the Board received an application from Dr. Leong to renew his Maine medical license.
3. On July 12, 2010, the Board staff received information from a pharmacist who indicated that he had just filled a prescription for controlled drugs (Oxycontin) issued by Dr. Leong for JM, a male patient. The pharmacist also indicated that he had worked in the area a long time and was aware that Dr. Leong practiced the medical specialty of OB/GYN. The pharmacist contacted Dr. Leong, who confirmed the prescription and indicated that he had

been treating patient JM for some time for back pain. As a result of receiving this information, the Board staff obtained information from the Prescription Monitoring Program (PMP), which confirmed that Dr. Leong had been prescribing controlled drugs to male patients, including JM.

4. On or about September 29, 2010, the Board staff sent Dr. Leong a subpoena to provide the Board with a copy of JM's medical records.

5. On or about October 12, 2010, the Board received a letter from Dr. Leong, together with a copy of JM's medical records. According to Dr. Leong's letter, about a year prior he slipped and fell and injured his shoulder and back. As a result of his injury, Dr. Leong decided to give up surgery and obstetrics due to continuing pain and safety concerns for his patients. According to Dr. Leong, he began a "general practice" of medicine on a part-time basis that included male patients. Dr. Leong described patient JM as a "walk in" patient who requested pain medication. Dr. Leong indicated that patient JM was from out-of-state, had returned a few times, and that he tried to refer patient JM to physical therapy and a pain control clinic.

6. A review of the medical records for JM indicated:

- a. 7-10-10 " 'Walk - in' History reviewed Has pcp (primary care physician) from out of state. Temporarily staying in Maine. Cc Generalized chronic pain esp. joints - sometimes severe. Pain discussed Advised _____ and try other methods of treatment Attempt to refer to Behavioral Clinic and Rehab - pt. (patient) hesitating pcp did the same. Rx Oxycontin 20 mg tid PRN x 90 # - Advised prescription of analgesics are temporary - To return to own physician for continuing care Wt - 195 Bp 165/70"

- b. 8-11-10 "Pain – generalized Previous treatment tried
Continues to do mild exercises and treatment Rx Oxycontin
20 mg Tid PRN x 90 # follow-up Advised"
- c. 9-17-10 "Generalized pain esp joints On analgesics
Advised to take minimum Rx Oxycodone 20 mg PRN Bid x
95 follow-up"

Dr. Leong's hand-written records for patient JM did not include any of the following elements for treating chronic pain in accordance with Board Rule, Chapter 21, Section III, "Principles of Proper Pain Management:"

- a. Appropriate documentation of medical history and physical examination, including the nature and intensity of the pain, current and past treatments for pain, underlying or coexisting diseases, the effect of the pain on physical and psychological functioning, and history of substance abuse.
- b. Appropriate documentation of a treatment plan that states objectives to be used to determine treatment success, and should indicate whether any other diagnostic evaluations or treatments are planned.

In addition, Dr. Leong's medical records did not explain why he continued to prescribe narcotics to JM knowing that JM had a primary care physician in another state and after he advised JM that he should return to his physician for continuing care.

7. On December 14, 2010, the Board reviewed the foregoing information, and voted to initiate a complaint against Dr. Leong's license pursuant to 32 M.R.S. § 3282-A. The Board docketed the complaint as CR10-580, and sent it to Dr. Leong for response. In addition, the Board issued a subpoena to Dr. Leong to produce the medical records of 3 other male patients

and 4 female patients.

8. On December 30, 2010, the Board's Medical Director received a telephone call from Dr. Leong. Dr. Leong told the Medical Director that he had not been practicing OB/GYN for about one year since he was injured, and that he had switched to family practice and treats both men and women. Dr. Leong admitted that his medical record documentation was not the best. Dr. Leong said he prescribed the patients what they were receiving from other doctors, believed that the patients were in pain, other treatment options have not worked, and that pain medications are their "last resort." The Medical Director told Dr. Leong that he needed to explain his medical treatment of these patients, why he was prescribing the medications and his treatment plan.

9. On January 4, 2011, the Board's Medical Director again spoke telephonically with Dr. Leong. The Medical Director told Dr. Leong that the Board's complaint focused on concerns related to his prescribing of controlled substances and his transition to a primary care provider. Dr. Leong admitted that he was "naïve" when it came to patient requests for narcotics. The Medical Director discussed with Dr. Leong the need to obtain and review medical records of patients who transfer to his care, perform drugs testing, pill counts, access the prescription monitoring program (PMP). During this conversation, Dr. Leong stated that MaineCare has allowed him to be a primary care provider, but stated that he had no specific medical training in primary care, although all of his continuing medical education (CME) was in primary care.

10. On January 18, 2011, the Board received a response from Dr. Leong to complaint CR10-580. In his response, Dr. Leong stated that during the last year he switched his practice from OB-GYN, which he practiced for 37-38 years, to general and family practice that includes the treatment of male and female patients. Dr. Leong stated that he attends medical seminars on general medicine, and that he has prescribed narcotics for years for post-operative pain control. Dr. Leong also stated that treating patients for chronic pain was new to him and posed a challenge. Dr. Leong did not describe his treatment for each of the 7 patient records subpoenaed by the Board, but provided a general description of his approach to their care, including performing regular "physicals" and referring "difficult cases" to specialists. None of the 7 patient records provided by Dr. Leong with his response included any of the following elements for treating chronic pain in accordance with Board Rule, Chapter 21, Section III, "Principles of Proper Pain Management:"

- a. Appropriate documentation of medical history and physical examination, including the nature and intensity of the pain, current and past treatments for pain, underlying or coexisting diseases, the effect of the pain on physical and psychological functioning, and history of substance abuse.
- b. Appropriate documentation of a treatment plan that states objectives to be used to determine treatment success, and should indicate whether any other diagnostic evaluations or treatments are planned.

11. On February 8, 2011, the Board reviewed complaint CR10-580, including the hand-written medical records for the 3 male and 4 female

patients to whom Dr. Leong prescribed narcotics for chronic pain. Following its review, the Board voted to schedule the matter for an adjudicatory hearing. In addition, the Board voted to authorize its assigned legal counsel to negotiate a consent agreement with Dr. Leong to resolve CR10-580 without hearing.

12. This Consent Agreement has been negotiated by and between legal counsel for Dr. Leong and assigned legal counsel for the Board in order to resolve complaint CR10-580 and his pending license application without an adjudicatory hearing. Absent Dr. Leong's acceptance of this Consent Agreement by signing it, dating it, having it notarized, and returning it to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before May 6, 2011, the Board will resolve these matters by holding a consolidated adjudicatory hearing at a later date.

13. By signing this Consent Agreement, Dr. Leong waives any and all objections to, and hereby consents to allow the Board's legal counsel to present this proposed Consent Agreement to the Board for possible ratification on May 10, 2011. Dr. Leong also forever waives any arguments of bias or otherwise against any of the Board members in the event that the Board fails to ratify this proposed Consent Agreement.

COVENANTS

In lieu of proceeding to an adjudicatory hearing the Board and Dr. Leong agree to the following disposition.

14. Dr. Leong concedes that based upon the facts described in

paragraphs 1 to 10 above that the Board has sufficient evidence from which it could conclude that he engaged in unprofessional conduct by prescribing narcotic medication to patients without conducting and documenting appropriate medical history, physical examination, and treatment planning. Dr. Leong concedes that such conduct, if proven, could constitute grounds for discipline and the denial of his application to renew his Maine medical license pursuant to 32 M.R.S.A. § 3282-A(2)(F).

15. As discipline for the conduct admitted above, Dr. Leong agrees to:

a. Accept a REPRIMAND. As a medical professional and licensee of the Board, Dr. Leong should have been aware of the limitations of his medical knowledge and training with regard to treating chronic pain by prescribing narcotic medication. Narcotic medications are highly addictive and subject to abuse. As a medical professional, Dr. Leong was also responsible for being aware of and complying with Board Rule, Chapter 21, "Use of Controlled Substances For Treatment of Pain."

b. Dr. Leong shall immediately cease practicing general medicine, a medical specialty for which he has limited medical training, and limit his practice of medicine only to office-based gynecology.

c. Dr. Leong shall immediately cease prescribing any controlled medications for the treatment of chronic pain (i.e. narcotics, benzodiazepines, hypnotics). Dr. Leong may prescribe controlled substances for no more than ten (10) consecutive days to treat gynecology patients for acute pain/acute

anxiety/conditions. In addition, to the extent that Dr. Leong prescribes any controlled drugs to patients in his office-based gynecological practice, Dr. Leong shall comply with Board Rule, Chapter 21, "Use of Controlled Substances For Treatment of Pain."

16. The Board agrees to issue and Dr. Leong agrees to accept a Maine medical license subject to the following restrictions/conditions:

- a. Dr. Leong will limit his practice of medicine to office-based gynecology.
- b. Dr. Leong shall not prescribe any controlled medications for the treatment of chronic pain (i.e. narcotics, benzodiazepines, hypnotics).
- c. Dr. Leong shall not prescribe controlled substances for more than ten (10) consecutive days to treat gynecology patients for acute pain/acute anxiety/conditions. In addition, to the extent that Dr. Leong prescribes any controlled drugs to patients in his office-based gynecological practice, Dr. Leong shall comply with Board Rule, Chapter 21, "Use of Controlled Substances For Treatment of Pain."

17. Dr. Leong waives his right to a hearing before the Board or any court regarding all findings, terms, restrictions and conditions of this Consent Agreement. Dr. Leong agrees that this Consent Agreement is a final order resolving complaint CR10-580 and his pending application for licensure. This Consent Agreement is not appealable and is effective until or unless modified or rescinded in writing by the parties hereto. This Consent Agreement cannot

be amended orally. It can only be amended by a writing signed by the parties hereto and approved by the Office of Attorney General.

18. The Board and the Office of the Attorney General may communicate and cooperate regarding Dr. Leong or any other matter relating to this Consent Agreement.

19. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408. This Consent Agreement constitutes disciplinary and adverse licensing action that is reportable to the Federation of State Medical Boards (FSMB), the National Practitioner Data Bank (NPDB), and the Healthcare Integrity and Protection Data Bank (HIPDB).

20. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.

21. The Board and Dr. Leong agree that no further agency or legal action will be initiated against him by the Board based upon complaint CR10-580, except or unless he fails to comply with the terms and conditions of this Consent Agreement.

22. Dr. Leong acknowledges that, pursuant to Title 10 M.R.S. § 8003(5)(B), his failure to comply with any of the terms or conditions of this Consent Agreement shall constitute grounds for additional disciplinary action against his Maine medical license, including but not limited to an order, after hearing, imposing additional fines and costs.

23. Dr. Leong acknowledges and agrees that, pursuant to Title 10 M.R.S. § 8003(5), the Board has the authority to suspend or revoke his medical license in the event that he fails to comply with any terms or conditions of this Consent Agreement.

24. Dr. Leong has been represented by Emily A. Bloch, Esq., who has participated in the negotiation of this Consent Agreement.

25. Dr. Leong acknowledges by his signature hereto that he has read this Consent Agreement, that he has had an opportunity to consult with an attorney before executing this Consent Agreement, that he executed this Consent Agreement of his own free will and that he agrees to abide by all terms and conditions set forth herein.

I, KENG CHEONG LEONG, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING IT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

Dated: 5-4-11


KENG CHEONG LEONG, M.D.

STATE OF Maine
Andrew Scragin, S.S.

Personally appeared before me the above-named, Keng Cheong Leong, M.D., and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED:

5/4/2011

Sharon Goes

SHARON P. GOES
NOTARY PUBLIC
MAINE

NOTARY PUBLIC/ATTORNEY MY COMMISSION EXPIRES APRIL 26, 2017

MY COMMISSION ENDS:

April 26, 2017

Dated:

5/3/11

Emily A. Bloch

EMILY A. BLOCH, ESQ.
Attorney for Dr. Leong

STATE OF MAINE BOARD OF
LICENSURE IN MEDICINE

Dated:

5/10/2011

Sheridan R. Oldham, MD

SHERIDAN R. OLDHAM, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF ATTORNEY GENERAL

Dated:

5/10/11

Dennis E. Smith

DENNIS E. SMITH
Assistant Attorney General

Effective Date:

5/10/11

APPENDIX E

DANIEL BOBKER, M.D.
Complaint NO CR 07-197

SECOND AMENDMENT TO SECOND CONSENT AGREEMENT
APPROVED March 8, 2011

See Page 8 of Minutes of March 8, 2011 Section VII (B)(1)

B. CONSENT AGREEMENT MONITORING AND APPROVAL

1. DANIEL BOBKER, M.D.

Dr. Dreher moved to accept the proposed modification of Dr. Bobker's consent agreement to increase his work hours. Dr. Gleaton seconded the motion, which passed 6-0-0-1 with Dr. Hatfield recused.

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)	SECOND AMENDMENT TO
Daniel Bobker, .M.D.)	SECOND CONSENT
Complaint No. CR07-197)	AGREEMENT

This document is a Second Amendment to a Second Consent Agreement effective January 27, 2010, regarding a disciplinary action against and conditions imposed upon the license to practice medicine in the State of Maine held by Daniel Bobker, M.D. The parties to this Second Amendment of that Second Consent Agreement are: Daniel Bobker, M.D. (“Dr. Bobker”), the State of Maine Board of Licensure in Medicine (“the Board”), and the Office of the Attorney General (the “Attorney General”). This Second Amendment to the Second Consent Agreement is entered into pursuant to 32 M.R.S. § 3282-A and 10 M.R.S. § 8003(5).

BACKGROUND

1. On January 27, 2010, the parties entered into a Second Consent Agreement regarding a disciplinary action concerning and conditions imposed upon the license to practice medicine in the State of Maine held by Daniel Bobker, M.D.
2. In paragraph 15(f)(iii) of the Consent Agreement, Dr. Bobker agreed to “work no more than twenty (20) hours per week (daytime hours only).”
3. On January 28, 2011, the Board received a written request from Dr. Bobker to increase his daytime work hours to thirty (30) hours per week. In addition, on February 7, 2011 and March 2, 2011, the Board received letters supporting Dr. Bobker’s readiness to increase his daytime work hours to thirty (30) hours per week from his current treatment providers and practice monitor.

4. On March 8, 2011, the Board reviewed Dr. Bobker's request, together with the letters in support of the increase in daytime work hours and the positive reports from Dr. Bobker's treatment providers and practice monitor. Following its review, the Board voted to grant the request and offer Dr. Bobker this amendment to the Second Consent Agreement.

AMENDMENT

5. Dr. Bobker, the Board, and the Office of Attorney General hereby agree to amend the Second Consent Agreement dated January 27, 2010, by amending the language of paragraph 15(f)(iii) to read as follows:

Work Hours. Upon return to the active practice of medicine, Dr. Bobker agrees to work no more than thirty (30) hours per week (daytime hours only). Dr. Bobker agrees to permit the Board or its agent(s) complete access to his medical practice to ensure his compliance with this provision. Dr. Bobker may file a written application with the Board to increase the number of hours he may work per week. The Board shall retain the sole discretion to grant or deny such a request without hearing. Dr. Bobker acknowledges that any decision by the Board concerning this issue is not appealable.

6. Dr. Bobker acknowledges by his signature hereto that he has read this Second Amendment to the Second Consent Agreement, that he has had an opportunity to consult with an attorney before executing this Second Amendment, that he executed this Second Amendment of his own free will and that he agrees to abide by all terms and conditions set forth herein.

I, DANIEL BOBKER, M.D., HAVE READ AND UNDERSTAND THE FOREGOING SECOND AMENDMENT TO THE SECOND CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING I WAIVE CERTAIN RIGHTS INCLUDING THE RIGHT TO FURTHER HEARINGS REGARDING THIS AMENDMENT. I ALSO WAIVE THE RIGHT TO APPEAL TO THE COURT REGARDING THIS AMENDMENT. KNOWING THIS, I SIGN IT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS SECOND

AMENDMENT, TOGETHER WITH THE SECOND CONSENT AGREEMENT, CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN, OR OTHERWISE. I ACKNOWLEDGE THAT I HAVE HAD THE OPPORTUNITY TO DISCUSS THIS SECOND AMENDMENT WITH LEGAL COUNSEL PRIOR TO SIGNING IT.

Dated: 3/26/11



DANIEL BOBKER, M.D.

STATE OF MAINE
Sagadahoc, SS.

Before me this 26 day of March, 2011, personally appeared Daniel Bobker, M.D., who after first being duly sworn, signed the foregoing Second Amendment to the Second Consent Agreement in my presence or affirmed that the signature above is his own.

Brenda F Card

Notary Public/Attorney at Law
My commission expires:

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

BRENDA F. CARD
NOTARY PUBLIC, STATE OF MAINE
MY COMMISSION EXPIRES NOV. 2, 2015

DATED: 5/10/2011



SHERIDAN R. OLDHAM, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: 5/10/11



DENNIS E. SMITH
Assistant Attorney General

Effective Date: 5/10/11